IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6636 OF 2004

Subodh Vasudeo Kulabkar .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr.Shekhar Naphade with Mr.R.K.Mendadkar for the petitioner

Mr.R.D.Rane, Addl. G.P. for respondent no.1 to 5

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 30TH AUGUST, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. By the present petition, the petitioner is challenging the order passed by the 2nd respondent rejecting the caste claim of the petitioner as belonging to 'Mahadeo Koli', Scheduled Tribe. Some of the material facts briefly stated are as under:

2. On 30th November 1983, the petitioner alleged

to have obtained a caste certificate as belonging to Mahadeo Koli from the 5th respondent. On the basis of the said caste certificate the petitioner got himself appointed on 2nd September 1994 in the post of Clerk-cum-Typist under the reserved category of scheduled tribe. On 7th September 1994, consequent to the order of appointment the petitioner joined the services of the 3rd respondent in the aforesaid post under the reserved category. On 4th October 2000, the 3rd respondent referred the matter to the 2nd respondent being Caste Scrutiny Committee for verification of the caste claim of the petitioner herein. Before the said Caste Scrutiny Committee, the petitioner has produced only three documents namely (1) caste certificate issued in his favour by the Tahsildar (2) Two certificates containing school entries of parental relatives as in the year 1961, 1959 and 1963.

3. The said entries show one of the caste of his relative ’SonKoli’ and another entry shows an interpolation where the word ’SonKoli’ is altered

by hand writing to Mahadeo Koli. On the basis of aforesaid documents petitioner sought validation of his caste certificate. A vigilance enquiry was conducted and the vigilance report has been filed before the authorities which inter alia indicated (1) that the caste certificate relied upon as issued by the 5th respondent was in fact never issued and therefore the same is a fake certificate (2) the entries in the school record relied upon by the petitioner was also interpolated and therefore, not reliable documents.

4. After receipt of the vigilance report, a show cause notice was issued to the petitioner seeking explanation why the caste certificate alleged to have been issued to the petitioner should not be invalidated. Ultimately, the Caste Scrutiny Committee has invalidated the caste claim of the petitioner on basically two grounds

(i) the caste certificate produced by the petitioner in his favour from the office of the 5th respondent is in fact a fake caste certificate and

on original record being inspected it was found that no such caste certificate has been issued in his favour.

(ii) In so far as the documents which are produced by the petitioner is concerned they cannot be relied upon since there were discrepancies even in those documents. Further except the 3 documents, the petitioner has been unable to produce any other documents in his favour before the Caste Scrutiny Committee. The Caste Scrutiny Committee on the aforesaid basis has come to the conclusion that the petitioner has failed to establish his caste claim and accordingly the caste claim has been rejected.

5. The learned counsel appearing for the petitioner has inter alia contended that the petitioner's caste certificate is valid and ought to have been validated by the Caste Scrutiny Committee. He has further contended that the caste certificate produced by him is not fake and is a genuine certificate irrespective of the fact that

the same is not found on the record / register of the 5th respondent. According to him the petitioner is not responsible for ommission of the entry in the said caste certificate register maintained by the authorities. The learned counsel for the petitioner has further argued by relying upon the Judgment of the Apex Court in Vasant Pandurang Narwade @ Narvde vs. Suhas & Ors. in Civil Appeal Nos.4409-4410 of 2001 that it is not open for the Caste Scrutiny Committee to reject the caste claim of the petitioner merely on the ground that the petitioner has produced fake caste certificate. He has contended that the Caste Scrutiny Committee is under an obligation to determine the caste of the petitioner even if the caste claim certificate produced is bogus. It has been further contended that even assuming without admitting that the petitioner has failed to establish his caste claim even on merits this court should still extend the benefit of the G.R. dated 15th June, 1995 in favour of the petitioner to protect the services of the petitioner who is in employment. According to the petitioner, the said

G.R. applies even if a person has failed to establish his caste claim. In particular, the learned counsel for the petitioner has relied upon paragraph 4 of the said G.R. which reads as under:

> "4. The reservation as aforesaid given to Special Backward Class category is applicable to direct recruitment and promotion and the Creamy layer criteria is not applicable to this category. The persons from this category who have entered into service and has obtained promotion on the basis of Scheduled Tribe Certificate, they should not be reverted or terminated from service."

6. We have also perused the affidavit in reply filed by the State Government in which the State Government has inter alia stated as under:

> "8. With reference to Para No.11 of the Petition and its ground (i) to (iii) of the Petition, I say and submit that it is the bounded duty of issuing authority to ascertain seal and signature appearing on the said caste certificate, who communicated that their is no entry of caste certificate issued to Petitioner in the register for the year 1982 and 1983. In present case Committee has scrutinized the Petitioner’s claim as per the

directions laid down by the Hon’ble Supreme Court in the case of Kum.Madhuri Patil and decided on merit. Further, it is procedure of vigilance to conduct school enquiry and home enquiry and to bring all the record and place it before Committee to decide the caste of person on merit."

7. We have heard the parties at length. At the outset, we are of the opinion that a person who approaches this Court by relying upon a fake caste certificate as well as manipulated documents is not entitled to any relief whatsoever under article 226 of the Constitution of India. The present petition thus deserves to be dismissed on this limited ground alone. We have perused the register maintained by the respondents in original. The said register contains a record of the caste certificates issued by the respondent no.5 at the relevant time. This register in the last column also contains a signature of respondent no.5 who was in office at the relevant time. We have compared the said signature with the signature appearing on xerox copy of the caste certificate produced by the petitioner. (Even before the Caste Scrutiny Committee the petitioner did not produce

original caste certificate issued by the respondent no.5). We find that both the signatures in all material aspects differs from each other. Thus, our observations in respect of these documents are as under:

1) The signature on the xerox copy of the caste certificate produced by the petitioner and the signature of the Tahsildar at the relevant time as appearing in the register are totally different and there is not even a semblance of similarity.

2) The caste certificate number which has been given is 931. However, during the said date of 30th November 1983 the caste certificate which were issued were numbered at around 283, 284 and 285. As on 30th November 1983, there is no caste certificate at all has been issued.

8. However, in so far as other documents are concerned such as the school record of the petitioner and his relatives, we find that the Caste Scrutiny Committee on the basis of the report

of the Vigilance commission found that the same is also unreliable as one of the said entry is also interpolated. In view of the aforesaid consideration, the Caste Scrutiny Committee came to the conclusion that the petitioner does not belong to Schedule Tribe Mahadeo Koli as claimed by him.

9. We are not inclined to interfere with the findings of fact arrived at by the 2nd respondent at all. We are of the view that the decision of the Committee is based on valid reasons. We have ourselves looked into the original records of the caste certificate only with a view to satisfy ourselves that there is no miscarriage of justice to the petitioner. On perusal of the record we are also of the opinion that the petitioner has relied upon the fabricated documents for the purpose of obtaining the caste claim.

10. In the light of the aforesaid facts the contention of the learned counsel for the

petitioner that the petitioner should be given a benefit of G.R. dated 15th June 1995 so as to permit him to continue the services obviously cannot be accepted. It is now a settled law that no relief can be granted to the petitioner who does not come to the court with clean hands. The petitioner has come to this Hon'ble Court by relying upon ex-facie fabricated documents and therefore, we are of the view that no relief much less an equitable relief to permit the petitioner to continue in employment by extending the benefit of the G.R. of 1995 can be granted. Hence, we dismiss the present petition with cost quantified at Rs.10,000/-.

Parties to act on a copy of this order duly authenticated by the Court Stenographer.